

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JACE JOSEPH DECKER
PO Box 304
Wallace, CA 95254

Registered Nurse License No. 513362

Respondent.

Case No. 2008-64

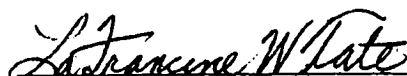
OAH No. 2007120646

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 19, 2008.

IT IS SO ORDERED June 19, 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN, State Bar No. 193338
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 322-5318
6 Facsimile: (916) 324-5567
E-mail: Geoffrey.Allen@doj.ca.gov
7

8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **JACE JOSEPH DECKER**

14 P.O. Box 304
Wallace, CA 95254

15 Registered Nurse License No. 513362

16 Respondent.

Case No. 2008-64

OAH No. 2007120646

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
22 the Board of Registered Nursing (Board). She brought this action solely in her official capacity
23 and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
24 California, by Geoffrey S. Allen, Deputy Attorney General.

25 2. Jace Joseph Decker (Respondent) is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 ///

28 ///

3. On or about July 27, 1995, the Board issued Registered Nurse License Number 513362 (License) to Respondent. The License will expire on June 14, 2008, unless renewed.

JURISDICTION

4. Accusation No. 2008-64 (Accusation) was filed before the Board, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 8, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of the Accusation is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in the Accusation. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in the Accusation, agrees that cause exists for discipline and hereby surrenders his License for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his License without further process.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5
6
7
8
9
10

11
12
13

14
15
16

17

18
19

20
21
22
23

24

25

26
27

28

1 16. Respondent understands and agrees that if he ever applies for licensure or
2 petitions for reinstatement in the State of California, the Board shall treat it as a new application
3 for licensure. Respondent must comply with all the laws, regulations and procedures for
4 licensure in effect at the time the application or petition is filed, and all of the charges and
5 allegations contained in the Accusation shall be deemed to be true, correct and admitted by
6 Respondent when the Board determines whether to grant or deny the application or petition.

7 17. Should Respondent ever apply or reapply for a new license or certification,
8 or petition for reinstatement of a license, by any other health care licensing agency in the State of
9 California, all of the charges and allegations contained in the Accusation shall be deemed to be
10 true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
11 proceeding seeking to deny or restrict licensure.

12 18. Respondent shall not apply for licensure or petition for reinstatement for
13 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

14 19. Respondent shall pay the Board its costs of investigation and enforcement
15 in the amount of \$4,455.25 prior to issuance of a new or reinstated license. Respondent shall be
16 permitted to pay these costs in a payment plan approved by the Board.

17 ///

18 ///

19 ///

20

21

22

23

24

25

26

27

28

ACCEPTANCE

1

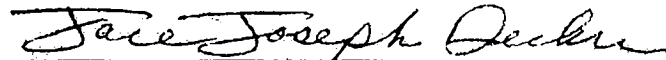
2

I have carefully read the Stipulated Surrender of License and Order. I understand

3 "the stipulation and the effect it will have on my License. I enter into this Stipulated
Surrender of 4 " License and Order voluntarily, knowingly, and intelligently, and agree to be
bound by the

5 " Decision and Order of the Board of Registered Nursing.

6 11 DATED: 07-09--g


JACE JOSEPH DECKER
Respondent

7

8

9

1

ENDORSEMENT

0

1

The foregoing Stipulated Surrender of License and Order is hereby respectfully

1

1

2

13 " submitted for consideration by the Board of Registered Nursing of the Department of
Consumer

EDMUND G. BROWN JR., Attorney General
of the State of California

ARTHUR D. TAGGART Supervising
Deputy Attorney General

GEOFFREY S. ALLEN
Deputy Attorney
General

Attorneys for Complainant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: _____.

JACE JOSEPH DECKER
Respondent


ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 4/9/08

EDMUND G. BROWN JR., Attorney General
of the State of California

ARTHUR D. TAGGART
Supervising Deputy Attorney General



GEOFFREY S. ALLEN
Deputy Attorney General
Attorneys for Complainant

Exhibit A
Accusation No. 2008-64

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Lead Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN, State Bar No. 193338
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
Facsimile: (916) 327-8643
7
8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-64
ACCUSATION

13 **JACE JOSEPH DECKER**
14 P.O. Box 304
Wallace, CA 95254

15 Registered Nurse License No. 513362,

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about July 27, 1995, the Board of Registered Nursing ("Board")
23 issued Registered Nurse License Number 513362 ("license") to Jace Joseph Decker
24 ("Respondent"). The license will expire on April 30, 2009, unless renewed.

25 **JURISDICTION**

26 3. Section 2750 of the Business and Professions Code ("Code") provides:

27 Every certificate holder or licensee, including licensees
28 holding temporary licenses, or licensees holding licenses placed

1 article [Article 3 of the Nursing Practice Act (Bus. & Prof.
2 Code, § 2700 et seq.)]. As used in this article, "license"
3 includes certificate, registration, or any other authorization to
4 engage in practice regulated by this chapter. The proceedings
5 under this article shall be conducted in accordance with Chapter 5
(commencing with Section 11500) of Part 1 of Division 3 of
6 Title 2 of the Government Code [the Administrative Procedure
7 Act], and the board shall have all the powers granted therein.

8
9
10
11
12 4. Code section 2764 provides:

13 The lapsing or suspension of a license by operation of
14 law or by order or decision of the board or a court of law, or the
15 voluntary surrender of a license by a licensee shall not deprive
16 the board of jurisdiction to proceed with any investigation of
17 or action or disciplinary proceeding against such license, or
18 to render a decision suspending or revoking such license.

19 STATUTORY PROVISIONS

20 5. Code section 2761 provides, in pertinent part:

21 The board may take disciplinary action against a
22 certified or licensed nurse or deny an application for a
23 certificate or license for any of the following:

24 (a) Unprofessional conduct . . .

25

26 (f) Conviction of a felony or of any offense substantially
27 related to the qualifications, functions, and duties of a registered
28 nurse, in which event the record of the conviction shall be
conclusive evidence thereof.

6. Code section 2762 provides, in pertinent part:

In addition to other acts constituting unprofessional
conduct within the meaning of this chapter [the Nursing Practice
Act], it is unprofessional conduct for a person licensed under
this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe,
or except as directed by a licensed physician and surgeon,
dentist, or podiatrist administer to himself or herself, or furnish
or administer to another, any controlled substance as defined in
Division 10 (commencing with Section 11000) of the Health
and Safety Code or any dangerous drug or dangerous device
as defined in Section 4022.

///

///

1 7. Code section 4022 provides:

2 "Dangerous drug" or "dangerous device" means any drug
3 or device unsafe for self-use in humans or animals, and includes
4 the following:

5 (a) Any drug that bears the legend: "Caution: federal law
6 prohibits dispensing without prescription," "Rx only," or words
7 of similar import.

8 (b) Any device that bears the statement: "Caution:
9 federal law restricts this device to sale by or on the order of a
10 _____," "Rx only," or words of similar import, the blank
11 to be filled in with the designation of the practitioner licensed
12 to use or order use of the device.

13 (c) Any other drug or device that by federal or state
14 law can be lawfully dispensed only on prescription or furnished
15 pursuant to Section 4006.

16 8. Code section 4060 provides:

17 No person shall possess any controlled substance, except
18 that furnished to a person upon the prescription of a physician,
19 dentist, podiatrist, optometrist, veterinarian, or naturopathic
20 doctor pursuant to Section 3640.7, or furnished pursuant to a
21 drug order issued by a certified nurse-midwife pursuant to
22 Section 2746.51, a nurse practitioner pursuant to Section 2836.1,
23 a physician assistant pursuant to Section 3502.1, a naturopathic
24 doctor pursuant to Section 3640.5, or a pharmacist pursuant
25 to either subparagraph (D) of paragraph (4) of, or clause (iv)
26 of subparagraph (A) of paragraph (5) of, subdivision (a) of
27 Section 4052. This section shall not apply to the possession
28 of any controlled substance by a manufacturer, wholesaler,
pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
veterinarian, naturopathic doctor, certified nurse-midwife, nurse
practitioner, or physician assistant, when in stock in containers
correctly labeled with the name and address of the supplier
or producer.

9. Health and Safety Code section 11173, subdivision (a), provides:

(a) No person shall obtain or attempt to obtain controlled
substances, or procure or attempt to procure the administration
of or prescription for controlled substances, (1) by fraud, deceit,
misrepresentation, or subterfuge; or (2) by the concealment of
a material fact.

10. Code section 125.3 provides that the Board may request the administrative
law judge to direct a licensee found to have committed a violation or violations of the licensing
act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of

the case

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, provides, in pertinent part:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

DRUGS

12. "Lortab," a compound containing Hydrocodone, is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4), and a dangerous drug within the meaning of Code section 4022.

Background

13. Beginning shortly after the issuance of this license in July 1995, until on or about October 29, 2001, Respondent was employed as a registered nurse at Mark Twain Convalescent Hospital (Mark Twain Hospital), located in San Andreas, California.

14. On or about November 10, 2004, during an investigation concerning the circumstance of the termination of his employment from Mark Twain Hospital, Respondent admitted to diverting Lortab on multiple occasions while employed at Mark Twain Hospital.

FIRST CAUSE FOR DISCIPLINE

(Wrongfully Obtaining and Possessing
a Controlled Substance and Dangerous Drug)

15. Respondent's license is subject to discipline for unprofessional conduct under Code section 2762, subdivision (a), in that on multiple occasions from July 1995, until on or about October 29, 2001, while employed at Mark Twain Hospital, Respondent did the following:

a. **Wrongfully Obtaining a Controlled Substance and Dangerous Drug.**

Respondent obtained Lortab, by fraud, deceit, misrepresentation, or subterfuge, or by the concealment of material facts by stealing the drug from Mark Twain Hospital, in violation of

1 b. Wrongfully Possessing a Controlled Substance and Dangerous Drug.

2 Respondent possessed Lortab without a valid prescription therefor, in violation of Code
3 section 4060.

4 **SECOND CAUSE FOR DISCIPLINE**

5 (Conviction of Crime)

6 16. Respondent's license is subject to discipline for unprofessional
7 conduct under Code section 2761, subdivision (f), in that on or about April 29, 2002, in
8 the case entitled, "*People v. Jace Joseph Decker*" (Super. Ct. Tuolumne County, 2002, No.
9 CRM6818), Respondent was convicted by the court upon a plea of guilty to violating Vehicle
10 Code section 23103 (reckless driving), a misdemeanor and a crime substantially related to the
11 qualifications, functions or duties of a registered nurse within the meaning of California Code
12 of Regulations, title, section 1444.

13 17. The circumstances of the convictions are that on or about September 4,
14 2001, Respondent drove a vehicle upon a highway in willful or wanton disregard for the safety of
15 persons or property.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

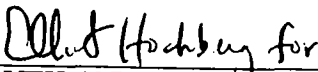
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing the Board issue a decision:

1. Revoking or suspending Registered Nurse License Number 513362, issued to Jace Joseph Decker;
2. Ordering Jace Joseph Decker to pay the reasonable costs incurred by the Board in the investigation and enforcement of this case pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/14/07



RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant